

Message Text

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SUBJ: 29TH SESSION SUB-COMMISSION ON PREVENTION OF
DISCRIMINATION AND PROTECTION OF
MINORITIES 12 AUG. - 1 SEPT.

ITEM 7 (DOCUMENT E/CN4/SUB2/L653) - THE HISTORICAL AND
CURRENT DEVELOPMENT OF THE RIGHT TO SELF-DETERMINATION
ON THE BASIS OF THE CHARTER OF THE UNITED NATIONS - AUG. 31.

1. THIS RES REQUESTS ADVISORY OPINION OF THE INTERNATIONAL
COURT OF JUSTICE (ICJ) ON THE LEGAL NATURE, SCOPE AND
IMPACT OF DECLARATIONS AND RESOLUTIONS OF THE MAIN ORGANS
OF THE U.N., PARTICULARLY THE GA, IN THE FIELD OF HUMAN
RIGHTS. DURING THE INTRODUCTION, CAICEDO PERDOMO EXPLAINED
THAT RES WAS PLACED UNDER ITEM 7 BECAUSE IT CONCERNS
PROCEDURE.

2. CRISTESCU AND SMIRNOV OBJECTED TO RES; THE FORMER
BECAUSE TO ASK THE ICJ FOR SUCH ADVICE IS A STEP BACKWARD.
THE COURT RULING WOULD NOT CLARIFY ISSUE. SMIRNOV CON-

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TENDED THAT THE U.N. CHARTER CLEARLY DIVIDES ROLE OF

GA (DECLARATIONS) AND ECOSOC (RESOLUTIONS). CERTAIN STATES MAY NOT RECOGNIZE A RES OF GA SINCE IT HAS CONDEMNATORY POWER BUT NO LEGAL COMMITMENT ON STATE. HOWEVER, THE GA CAN SEE THAT RESES OR DECLARATIONS ARE TRANSFORMED INTO TREATIES OR CONVENTIONS.

3. CAREY AGREED WITH CRISTESCU THAT RES SHOULD BE STATED IN SUCH A WAY THAT ICJ CAN GIVE A YES OR NO ANSWER, I.E., CAN A DECLARATION OR RES OF THE U.N. CREATE BINDING RULES OF INTERNATIONAL LAW WHETHER OR NOT SUCH LAWS REPRESENT "JUS COGENS"?

4. CAICEDO PERDOMO ARGUED THAT THE SUB-COMMISSION DRAFTS RESES AND AFTER A LENGTHY PROCESS THROUGH THE U.N. NOTHING HAPPENS SINCE THE CONVENTION IS NOT OPERABLE IF STATES DO NOT RATIFY THEM. THEREFORE, HE FELT THAT CO-SPONSORS WERE JUSTIFIED IN SEEKING CLARIFICATION ON ISSUE.

5. FOLLOWING EDITORIAL CHANGES AND AMENDMENTS RES WAS ADOPTED 12 (US) - 3 (USSR) - 4.

6. ITEM 6 (E/CN4/SUB2/L658 AND 659) - THE FORMER APPROVES TRAVEL FUNDS FOR KHALIFA TO AFRICA AND GENEVA TO COMPLETE THE STUDY ON THE ADVERSE CONSEQUENCES OF POLITICAL, MILITARY AND OTHER FORMS OF ASSISTANCE TO SOUTH AFRICA. THE SECOND EXTENDS THE DEADLINE FOR COMPLETION OF STUDY UNTIL THE 30TH SESSION OF THE SUB-COMMISSION. RESES WERE ADOPTED BY DECISION.

7. ITEM 4 (E/CN4/SUB2/L661) - THE SUB-COMMISSION GAVE ITS APPROVAL FOR THE ADDITIONAL FUNDS NEEDED TO UPDATE THE STUDY BEING MADE BY BARONESS ELLES.

8. ITEM 15 (E/CN4/SUB2/L629) - A STUDY BY MRS. HALIMA WARAZI ON THE EXPLOITATION OF LABOR THROUGH ILLICIT AND CLANDESTINE TRAFFICKING. FOLLOWING AUTHOR'S INTRODUCTION, BOUHDIBA (TUNISIA) PROPOSED THAT THE SUB-COMMISSION TAKE NOTE OF THE REPORT AND FORWARD IT WITH WARAZI'S UNCLASSIFIED

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RECOMMENDATIONS TO THE HRC. PROPOSAL WAS SUPPORTED BY QUESTIAUX, SMIRNOV AND MARTINEZ BAEZ. THE LATTER NOTED THAT MANY MEXICANS GO TO THE U.S. ILLEGALLY AND ARE EXPELLED. POINTING OUT THAT WHILE THE U.N. HAD ALREADY DEALT WITH THIS PROBLEM, CERTAIN CONDITIONS REMAIN. HE RECOMMENDED THAT THESE PROBLEMS (UNIDENTIFIED) BE EXAMINED BY THE U.N.

9. ITEM 16 (E/CN4/SUB2/L655) - DRAFT PROVISIONAL AGENDA FOR THE 30TH SESSION (OF THE SUB-COMMISSION). TWO ITEMS, 7 AND 14, WERE DELETED FROM THE AGENDA. THE FORMER IS THE WARZAZI REPORT WHICH WAS COMPLETED AND WILL BE FORWARDED TO THE HRC. THE LATTER IS ON THE QUESTION OF SLAVERY WHICH WILL BE CONSIDERED BIENNIALY.

10. FOR FUTURE WORK OF THE SUB-COMMISSION, WHITAKER (UK) RECOMMENDED THE HR OF MENTAL PATIENTS. RECOMMENDATION WAS APPROVED.CATTO

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